

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CLERK OF COURT
JUL 7 2005
C.A. No. 05-10286-PBs

DOMENIC V. DiMODICA,

Plaintiff,

vs.

ROBERT MURPHY, et al.,

Defendants.

PLAINTIFF'S MOTION FOR A
REASONABLE ACCOMODATION TO HIS DISABILITY
AT THE STATUS CONFERENCE SCHEDULED FOR JULY 15, 2005

The plaintiff Domenic V. DiModica moves that the court make a reasonable accomodation to his disability of being mentally retarded, by ordering that the defendant Massachusetts Department of Correction have Harold Marrow, a Correctional Program Officer accompany the plaintiff to status hearing on July 15, 2005, or alternatively the court issue a writ of habeas corpus ad testificandum for Joel Pentlarge, another inmate to attend the status hearing with the plaintiff.


The plaintiff has filed this action in large part because the Department of Correction (DOC) has not made any accomodation to the fact that the plaintiff is disabled by being mentally retarded in the 33 years that he has been committed to the Massachusetts Treatment Center. The plaintiff appreciates very much that court has made a major accomodation to his disability by ordering the appointment of pro bono counsel, a scarce and precious resource.

Unfortunately, although the court allowed appointment of pro bono counsel in February, no lawyer has volunteered to take this case yet. In the meanwhile participating in a status hearing without an attorney or anyone else who can explain what is going on is very confusing to the plaintiff, as set out in more detail in the accompanying affidavit.

The plaintiff believes that the accomodation that he is requesting is consistent with the Americans with Disabilities Act, and the holding of Tennessee v. Lane, 124 ^{S.Ct.} U.S. 1978 (200). It is not a substitute for having a lawyer, but it will help the plaintiff to better understand what happens in the status conference and participate in it.

Respectfully submitted,

Domenic V. DiModica, Plaintiff


Domenic V. DiModica, Pro Se
Mass. Treatment Center
30 Administration Rd.
Bridgewater, MA 02324

Certificate of Service

I, Domenic V. DiModica, state under the pains and penalties of perjury that I have served a copy of the foregoing motion on Attorney Mary Murray, by DOC mail, here at the Treatment Center, 30 Adminsitration Rd., Bridgewater, MA 02324, together with a copy of the accompanying affidavit.

July , 2005


Domenic V. DiModica

Affidavit of Domenic V. DiModica

I, Domenic V. DiModica, state under the pains and penalties of perjury, (which means that I can go to jail if I am lying about anything that I say on this paper) that:

1. My name is Domenic V. DiModica. I live at the Treatment Center in Bridgewater, Massachusetts.

2. I am able to read, and I have read this affidavit before signing it. Any words that I do not understand have been explained to me. Everything that I am saying this affidavit is true.

3. I got a paper in the mail from the Federal Court telling me that my case has been set for status conference on July 15, 2005 at 3:30 PM. at the courthouse in Boston, and the DOC has been ordered to bring me to the courthouse for the status conference.

4. I do not understand what a status conference is or why it is being held.

5. I have repeatedly asked if I am ever going to get out of the Treatment Center.

6. I have also asked, if I go to the Federal Court on July 15, will I have to come back to the Treatment Center.

7. I want very much to get out of the Treatment Center, because they are doing nothing to help me here.

8. Harold Marrow is a Correctional Program Officer, who works here at the Treatment Center. His job is to help inmates with problems that they have, like getting property. Mr. Marrow has helped me many times and trust him to tell me the truth, and to explain to me things that I do not understand.

9. Joel Pentlarge is another inmate here at the Treatment Center. He has helped me, writing letters for me and writing up this case to go to Federal Court. I trust him to tell me the truth and explain things to me that I do not understand.

10. Joel has told me that neither he, nor Mr. Marrow can be my lawyer; that what they do to help me understand what is going on in Court, is not the same as having a lawyer.

11. If the court will order either Mr. Marrow or Mr. Pentlarge to go to court with me it will help me to understand, because I have a very hard time understand what is going on in court.

Signed under the pains and penalties of perjury, because everything in this affidavit is true.

July 5, 2005


Domenic V. DiModica